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Isabelle Rollat-Corvol

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EXAMINER

WANG, SHENGJUN

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

1                                   RECORD OF ORAL HEARING  
2                   UNITED STATES PATENT AND TRADEMARK OFFICE

3                                   \_\_\_\_\_  
4                                   BEFORE THE BOARD OF PATENT APPEALS  
5                                   AND INTERFERENCES  
6                                   \_\_\_\_\_

6                   *Ex parte* ISABELLE ROLLAT-CORVAL and HENRI SARNAIN  
7                                   \_\_\_\_\_

8                                   Appeal 2009-003513  
9                                   Application 09/719,101  
10                                  Technology Center 1600  
11                                  \_\_\_\_\_

11                                 Oral Hearing Held: October 7, 2009  
12                                  \_\_\_\_\_

13                   Before DONALD E. ADAMS, LORA M. GREEN, and JEFFREY N.  
14                   FREDMAN, *Administrative Patent Judges*.

15                   APPEARANCES:

16                   ON BEHALF OF THE APPELLANTS:

17                                 MARK D. SWEET, ESQUIRE  
18                                 Finnegan, Henderson, Farabow,  
19                                 Garrett & Dunner, LLP  
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21                                 Washington, D.C. 20001-4413

21                   The above-entitled matter came on for hearing Wednesday, October 7,  
22                   2009, commencing at 10:15 a.m., at the U.S. Patent and Trademark Office,  
23                   600 Dulany Street, Alexandria, Virginia, before Deborah Courville, a Notary  
24                   Public.  
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P R O C E E D I N G S

THE USHER: Calendar Number 13, Appeal Number 2009-3513,  
Mr. Sweet.

JUDGE ADAMS: Thank you.

MR. SWEET: Good morning.

JUDGE ADAMS: Good morning, Mr. Sweet.

MR. SWEET: Would you like my business card?

REPORTER: Okay. Thank you.

MR. SWEET: Sure.

JUDGE ADAMS: We're familiar with issues in your case. You have  
20 minutes, and if you'd begin by spelling your name into the record for us,  
we'd appreciate it.

MR. SWEET: Yes. Mark Sweet, S-w-e-e-t. I'm here for the  
Appellant L'Oreal, and I intend to be very brief, not coming close to the 20  
minutes. I just want to emphasize two points. The first point with respect to  
the 112 rejection, we've been going back and forth with the Examiner about  
the application of the University of Rochester case. And I believe that that  
application is improper because our -- plain and simple, our specification  
does disclose many different polymers, which is a key fact difference from  
Rochester, which disclose nothing. That was the classic hope, you know,  
hope in a plan case.

JUDGE FREDMAN: Okay. Not only do you have two things that  
you bought, that were purchased, Eastman product and the other product,  
AQ 1315 or something else, but you actually took about three pages of just  
chemical description.

1           MR. SWEET: Yes. Okay. So let me move on to my second point.  
2 With respect to the combination that the Examiner's made with the 103  
3 rejection, I just want to emphasize that I don't believe that the Examiner has  
4 properly considered the references as a whole when they're making the  
5 combination. The Examiner does point, as you just mentioned, those  
6 Eastman AQ resins. I don't know exactly the Examiner's thought process,  
7 but it appears to me that the primary reference, you know, has an  
8 Eastman AQ resin in it, but with a higher TG. And then they're relying on a  
9 secondary reference which has an Eastman AQ resin in it with a lower TG.  
10 However, I believe that the properties are completely different. The use, you  
11 know, a hot-melt adhesive for a cardboard box versus a hair treatment  
12 composition are very divergent. And the properties that you're looking for  
13 in the primary reference, to have something, you know, with comb-ability  
14 and low stickiness, go directly against the properties set forth in the  
15 secondary reference of this, you know, super-strong hold for this hot-melt  
16 adhesive, again, for cardboard box applications.

17           So I just -- I think the Examiner was focused on the fact that they're  
18 both Eastman AQ resins. But as the primary reference itself points out on  
19 page 2, that, I mean, some of these resins are known to have good setting or  
20 holding, but removability from hair is quite poor, and I think -- I mean, that  
21 could be an example of the Eastman AQ polymer secondary reference. I just  
22 don't see the predictability and the expectation of success that you need for  
23 the Examiner's combination.

24           JUDGE FREDMAN: Well, and, additionally, Lee actually, which is  
25 an adhesive about 3 centipoises. Miller teaches that he wants to hot melt at  
26

1 1500 to 30,000 centipoises, a rather different set of ranges for the  
2 adhesiveness of the composition, for this -- to be the composition. But that's  
3 essentially the adhesiveness, yes.

4 JUDGE ADAMS: Anything else?

5 MR. SWEET: No.

6 JUDGE ADAMS: All right.

7 JUDGE GREEN: No?

8 MR. SWEET: No.

9 JUDGE ADAMS: Thanks for coming.

10 MR. SWEET: Thank you very much.

11 JUDGE FREDMAN: Thank you.

12 (Whereupon, the proceedings, at 10:15 a.m., were concluded.)

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